In the High Court of Punjab and Haryana at Chandigarh.

CR No.2736 of 2007

Date of decision:21.05.2007.

Panna Lal .....Petitioner

Versus

M/s. OSAW Industrial Products Pvt. Ltd., Ambala Cantt. & others .....Respondents.

CORAM:

HON'BLE MR. JUSTICE PERMOD KOHLI

Present: Mr.RK Chhibbar, Senior, Advocate, with
Mr.Anand Chhibbar, Advocate, for the petitioner.

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PERMOD KOHLI, J. (Oral):

This Revision arises out of an order dated 03.11.2006 (Annexure P-1), passed by the learned Additional District Judge (Fast Track), Ambala, dismissing the Misc. Appeal, preferred by the present petitioner against the order dated 14.03.2006, passed by the learned Civil

Judge (Junior Division), Ambala Cantt. The case of the petitioner is that the petitioner and Luxami Sagar were the partners of a firm M/s.Oriental Scientific Apparatus Workshop. A piece of land was purchased in the name of the firm, which was subsequently divided by virtue of a mutual decree dated 17.04.1994 subsequently amended on 19.07.1995. It is further stated that Luxami Sagar leased out 28 Kannals and 2 Marlas of land to his son's Company for 99 years, which included part of petitioner's property fallen to his share. This fact was subsequently revealed to the petitioner. The lessee M/s. OSAW Industrial Products Limited filed a suit for permanent injunction against the present petitioner and others in the Court of learned Civil Judge (Junior Division), Ambala Cantt. Along with the suit, an application under Order 39 Rules 1 and 2 of the Code of Civil Procedure, was also preferred. The learned trial Court vide its order dated 14.03.2006 issued an order restraining the present petitioner from dispossessing the plaintiff-respondent from the suit land, except in due course of law and a further restraint order was passed restraining the petitioner from alienating the suit land in favour of other defendants except after taking permission from the Director, Town and Country Planning Department. This order came to be challenged before the learned Additional District Judge (Fast

Track Court), Ambala, who dismissed the appeal on 03.11.2006. Both these orders are assailed before me, primarily, on the ground that though share of Luxami Sagar was only 28 Kannals 02 Marlas, however, he has illegally and fraudulently included a portion of the land, belonging to the petitioner in the lease deed executed in favour his son's company vide a registered lease deed dated 23.04.1993 to deprive the petitioner of his property.

The main contention of the learned counsel for the petitioner is that the description in the site plan annexed with the lease deed has been wrongly given, whereas the description of the property given in the site plan annexed in the partition suit, will depict that fraud has been played. According to the learned counsel, the injunction should have been confined to 17 Kannals 09 Marlas of land only and not the entire land i.e. 28 Kannals 02 Marlas which includes petitioner's land also.

I have heard the learned counsel for the petitioner at length and perused the impugned orders.

It is not disputed that instrument of lease contains the area as 28 Kannals 02 Marlas. The question of discrepancy in the site plan annexed with the lease deed and the instrument of lease, is required to

be considered during the course of trial. In the order impugned, the learned Appellate Court has observed that the present petitioner has admitted the possession of the respondents over the suit land. In such circumstances, it is not possible for this Court to interfere with the orders impugned, particularly when the order impugned itself shows that the plaintiff will not be dispossessed from the suit land except in due course of law. It is for the petitioner to seek appropriate remedy available under law.

Before parting with the judgment, it is observed that the learned trial Court will take all possible steps to decide the suit expeditiously.

With the observations aforesaid, the present Revision is disposed of.

(Permod Kohli)
Judge

May 21, 2007
BLS